

OFFERING INCENTIVES TO POTENTIAL SELLERS OR BUYERS

Section 54-2054(2), Idaho Code, allows a broker to share any part of a commission, fee or compensation received with the buyer or seller in a real estate transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner that would directly or indirectly create a double contract, or would otherwise mislead any broker, lender, title company or government agency involved in the transaction, regarding the source of the funds used to complete the transaction or regarding the financial resources or obligation of the buyer or seller.

Splitting fees with unlicensed person (“bird-dog” fees) who are not a party to the transaction, is prohibited.

Section 54-2054(6), Idaho Code, prohibits licensees from receiving “illegal” kickbacks and rebates from title insurance companies, escrow companies and lenders.

IDAHO REAL ESTATE LICENSE LAW

54-2054. Compensation, Commissions and Fees - Prohibited Conduct.

(2) Fee-splitting with unlicensed persons prohibited. Unless otherwise allowed by statute or rule, a real estate broker, associate broker or salesperson licensed in the state of Idaho shall not pay any part or share of a commission, fee or compensation received in the licensee's capacity as such in a regulated real estate transaction to any person who is not actively licensed as a real estate broker in Idaho or in another state or jurisdiction. The Idaho broker making the payment to another licensed person is responsible for verifying the active licensed status of the receiving broker. This section shall not prohibit payment of a part or share of a commission, fee or compensation by the broker to a legal business entity, all of whose shareholders, members or other persons having a similar ownership interest are active real estate licensees. An Idaho licensee may pay any part or share of a commission, fee or compensation received, directly to the buyer or seller in the real estate transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner which would directly or indirectly create a double contract, as defined in this chapter or which would otherwise mislead any broker, lender, title company or government agency involved in the transaction regarding the source of funds used to complete the real estate transaction or regarding the financial resources or obligations of the buyer.

(6) Kickbacks and rebates prohibited. No licensed real estate broker or salesperson shall receive a kickback or rebate for directing any transaction to any individual for financing. A licensee shall not receive a kickback or unearned fee for directing any transaction to any lending institution, escrow or title company, as those practices are defined and prohibited by the real estate settlement and procedures act. However, a licensee legally receiving any fee or rebate from any person providing direct services to either the buyer or the seller in connection with a regulated real estate transaction is required to disclose the licensee's intent to receive such fee, rebate or compensation in writing to all parties to the transaction prior to closing.